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13 GOOGLE INC.

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 ORACLE AMERICA, INC.,  
18 Plaintiff,  
19 v.  
20 GOOGLE INC.,  
21 Defendant.

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Case No. 3:10-cv-03561-WHA

**CORRECTED DECLARATION OF TIM  
LINDHOLM CONCERNING THE  
AUGUST 6, 2010 EMAIL AND DRAFTS  
THEREOF**

Judge: Hon. Donna M. Ryu

Date Comp. Filed: October 27, 2010

Trial Date: October 31, 2011

1 I, Tim Lindholm, state:

2 1. I have been employed since 2005 by defendant Google Inc. ("Google") as a  
3 Software Engineer in the Systems Infrastructure group at Google. I have never worked on the  
4 Android team, and have had no role in the design, development and/or implementation of the  
5 Android platform.

6 2. I am the author of the August 6, 2010 email and drafts thereof that I understand  
7 are the subject of the pending motion to compel filed by Oracle America, Inc. ("Oracle"). I  
8 submit this Declaration to provide factual information regarding those documents—namely, that  
9 they constituted a communication to a Google attorney and were the result of work that I  
10 performed at the direction of Google attorneys.

11 3. Except where I have stated facts on information and belief, I have knowledge of  
12 the facts set forth herein, and if called to testify as a witness thereto could do so competently  
13 under oath.

14 4. In late July 2010, Google in-house attorney Ben Lee informed me that he had  
15 attended a meeting in which Oracle made patent infringement claims against Google. I  
16 understood that Oracle was threatening to sue Google over those claims.

17 5. Mr. Lee asked me to gather certain information related to Oracle's infringement  
18 claims. I understood that my work for Mr. Lee would assist Google's legal analysis of Oracle's  
19 claims.

20 6. On July 30, 2010, I was asked by Google General Counsel Kent Walker to attend  
21 a meeting, convened by him, where we discussed Oracle's infringement claims. The meeting  
22 took place at Google's offices in Mountain View, California. Mr. Walker and Mr. Lee attended  
23 the meeting, along with Google top management and several Google engineers.

24 7. At the meeting, Mr. Walker asked me to continue to work under Mr. Lee's  
25 direction, and to work with Google engineer Dan Grove, also under Mr. Lee's direction, to  
26 gather information for Google's lawyers and management to consider in evaluating technology  
27 issues related to Oracle's infringement claims.



1           8.       On August 6, 2011, at 11:05 a.m., I sent an email reporting to Mr. Lee and to  
2 Andy Rubin, who was then a Google Vice President in charge of Android, concerning certain  
3 topics that Mr. Walker and Mr. Lee had asked me and Mr. Grove to investigate. On information  
4 and belief, I understand that two copies of this document were listed on Google's privilege log as  
5 entries 2551 and 5513 and that one copy of it has been submitted *in camera* to the Court.

6           9.       At the end of preparing my email, but before sending the email, I added the words  
7 "Attorney Work Product" and "Google Confidential" at the top. I then filled in the "To:" and  
8 "Cc:" fields. In the "To:" field I placed the email addresses of in-house lawyer Mr. Lee and of  
9 Mr. Rubin. In the "Cc:" field I put the email addresses of myself and of Dan Grove.

10          10.       On information and belief, as I was writing the email, Google's electronic-mail  
11 computer system automatically saved several unfinished drafts of the email. I understand that  
12 eight of these "auto-saves" were produced inadvertently to Oracle and that one auto-save is listed  
13 on Google's privilege log as entry 5512. On information and belief, I understand that copies of  
14 the auto-saves have been submitted *in camera* to the Court.

15          11.       The auto-saves represent "snapshots" of the email that I ultimately sent, taken at  
16 nine different stages of preparation during the roughly five-minute period between 11:01 a.m.  
17 and 11:05 a.m.

18          12.       The eight inadvertently produced auto-saves have empty "To:" lines because  
19 adding the addresses of Mr. Lee and Mr. Rubin was one of the last things that I did. Those eight  
20 auto-saves likewise do not show the words "Attorney Work Product" or "Google Confidential"  
21 because adding those words was one of the last things that I did. The ninth (and latest in time)  
22 auto-save includes the phrases "Attorney Work Product" and "Google Confidential" in the body,  
23 and only the character "a" in the "To" field.

24          13.       I understand that Oracle's motion seeks production of a document bearing  
25 production number GOOGLE-12-00039656. I have been shown that document and can confirm  
26 that it is not an auto-save of the email in question and is completely unrelated to any version of  
27 that email.

28

1           14. In sum, the documents sought by Oracle are really all one document, shown in  
2 different stages of preparation over the course of about five minutes. The documents constitute a  
3 communication to Google in-house attorney Ben Lee (among others), reporting investigations  
4 and analyses that Mr. Grove and I conducted at the request of Google General Counsel Kent  
5 Walker, under the supervision of Mr. Lee, and in anticipation of Oracle's threatened lawsuit.

6           I declare under penalty of perjury that the foregoing is true and correct. Executed on  
7 August 17<sup>th</sup>, 2011.

8  
9  
10 By: \_\_\_\_\_

TIM LINDHOLM